

Final Administrative Changes to the Coastal Nonpoint Pollution Control Program Guidance and Responses to Comments

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[Notices]

[Page 56146-56147]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

ENVIRONMENTAL PROTECTION AGENCY

Final Administrative Changes to the Coastal Nonpoint Pollution
Control Program Guidance and Responses to Comments

AGENCY: National Oceanic and Atmospheric Administration, U.S.
Department of Commerce, and the U.S. Environmental Protection Agency.

ACTION: Notice of Availability of Final Administrative Changes to the
Coastal Nonpoint Pollution Control Program Guidance and Responses to
Comments.

SUMMARY: Notice is hereby given of the availability of the Final
Administrative Changes to the Coastal Nonpoint Pollution Control
Program Guidance (Administrative Changes), developed under section 6217
of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA), 16
U.S.C. section 1455b, and of the Responses to Comments on the Proposed
Administrative Changes, CZARA requires States and Territories with
coastal zone management programs that have received approval under
section 306 of the Coastal Zone Management Act (CZMA) to develop and
implement coastal nonpoint pollution control programs. Coastal states
and territories were required to submit their coastal nonpoint programs
to the National Oceanic and Atmospheric Administration (NOAA) and the
U.S. Environmental Protection Agency (EPA) for approval in July 1995

In response to coastal states' concerns over the ability to target
the program; enforceable policies and mechanisms; timeframes; and
resources to implement coastal nonpoint programs, NOAA and EPA
completed a dialogue with the coastal states and other interested
parties, resulting in a draft set of administrative changes. The draft
administrative changes were made available for public comment (FR,
March 12, 1998, Vol. 63, Number 48, pages 12078-12079) prior to
producing the final guidance.

ADDRESSES: Copies of the Final Administrative Changes and Responses to
Comments may be obtained upon request from: Joseph P. Flanagan, Coastal

Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, NOS, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, telephone: (301) 713-3121, x201; e-mail: joseph.flanagan@noaa.gov.

SUPPLEMENTARY INFORMATION

Background

Subsequent to the 1990 enactment of the CZARA, in January 1993, EPA and NOAA published two documents to guide the development of States' (and Territories') coastal nonpoint pollution control programs: Guidance Specifying Management Measures for Sources of Nonpoint Pollution in Coastal Waters and Program Development and Approval Guidance. These provided both technical and programmatic guidance on program development. Subsequently, EPA and NOAA provided further program clarification in a January 6, 1995 letter and a March 16, 1995 document entitled Flexibility for State Coastal Nonpoint Programs. These actions provided greater flexibility to States in prioritizing their activities; extended the implementation period from three years to five years; and clarified the range of enforceable policies and mechanisms that could be sued by States to implement their programs. The letters also established the principle that, in recognition of the complexity of the program, States could be granted conditional approval for programs that are not yet fully approvable, thereby affording more time for States to fully develop their programs.

As of the date of this notice, NOAA and EPA have provided conditional approval to the 29 coastal States that submitted programs for approval. In April, 1997, NOAA, EPA, the States and other interested parties began discussions regarding the progress made to date in developing and implementing CZARA programs and the significant impediments to further progress. Both the States and Federal agencies recognized that while the goals of the CZARA program remain valid, the program and schedules originally conceived by NOAA and EPA were extremely ambitious and additional flexibility would be needed to enable the States to successfully implement their programs. Based on this understanding, the parties proceeded to discuss in detail the specific aspects of the program that would require modification while maintaining the overall objective that States implement management measures needed to protect coastal waters.

Based on these discussions, EPA and NOAA drafted a set of administrative changes that the agencies proposed to use to guide future implementation of the CZARA program. After reviewing public comments that were submitted in response to the March 12, 1998 Federal Register notice on the availability of the proposed administrative changes, NOAA and EPA developed these final administrative changes to the program guidance. In some cases, these changes may impact previous findings and conditions to State programs. In such cases, EPA and NOAA will review those findings and conditions and make any necessary adjustments to those findings and conditions (including, where appropriate, elimination of conditions).

On October 18, 1997, the 25th anniversary of the Clean Water Act, Vice President Gore directed the Environmental Protection Agency (EPA) and Department of Agriculture (USDA) to work with other Federal agencies (including NOAA) to develop a Clean Water Action Plan within 120 days. In a memorandum for Heads of Departments and Agencies, the Vice President specifically requested Federal agencies to ``* * *

develop a

[[Page 56147]]

comprehensive Action Plan that builds on the * * * clean water successes over the past five years and addresses three major goals: enhanced protection from public health threats posed by water pollution; more effective control of polluted runoff; and promotion of water quality protection on a watershed basis.' ' The Action Plan is informed by the following principles:

- <bullet> Agencies will develop cooperative approaches that promote coordination and reduce duplication among Federal, State and local agencies and Tribal governments wherever possible.

- <bullet> Agencies will ensure participation of community groups and the public to the maximum extent practicable. Such participation will include community and public access to information, to protect the public's right-to-know about water quality issues.

- <bullet> Agencies will emphasize innovative approaches to pollution control, including, where appropriate, incentives, market-based mechanisms, and cooperative partnerships with landowners and other private parties.

On February 19, 1998, President Clinton announced the Clean Water Action Plan to restore and protect America's waters. NOAA and EPA view these administrative changes as supporting the goals of the President's Clean Water Action Plan to reduce polluted runoff in coastal areas. In particular, these changes respond to the following key action included in the Clean Water Action Plan.

NOAA and EPA will work with coastal states and territories to ensure that they have developed programs to reduce polluted runoff in coastal areas and that these programs are at least conditionally approved by June 1998 and that all programs are fully approved by December 1999, with appropriate state-enforceable policies and mechanisms.

The Final Administrative Changes provide guidance to the States on how NOAA and EPA intend to exercise their discretion in implementing the Coastal Nonpoint Pollution Control Program. As such, these Final Administrative Changes, as well as the previously issued guidance they modify, are not regulations.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: October 15, 1998.
Captain Evelyn J. Fields,
Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.
J. Charles Fox,
Acting Assistant Administrator for Water, Environmental Protection Agency.

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